

Senate Bill No. 143

CHAPTER 167

An act to amend Sections 25395.91, 25395.109, and 25395.110 of the Health and Safety Code, relating to hazardous materials.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 143, Cedillo. Hazardous materials: California Land Reuse and Revitalization Act of 2004.

The California Land Reuse and Revitalization Act of 2004 provides, among other things, that an innocent landowner, bona fide purchaser, or contiguous property owner, as defined, qualifies for immunity from liability from certain state laws for pollution conditions caused by a release or threatened release of a hazardous material if specified conditions are met. The act prohibits an agency, defined as the Department of Toxic Substances Control, the State Water Resources Control Board, or a California regional water quality control board, from requiring one of those persons to take a response action under certain state laws. The act also requires a bona fide ground tenant, as defined, who seeks to qualify for immunity to make all appropriate inquiries and enter into an agreement with an agency along with one or more specified entities that agree to take responsibility for implementation of a site assessment and response plan. The act is repealed on January 1, 2010, unless a later enacted statute deletes or extends that date.

Existing law, which becomes operative on January 1, 2010, provides for the continued immunity of a person subject to the act before its repeal, after the repeal of the act, if the person continues to comply with the repealed act.

This bill would extend the repeal date of the act to January 1, 2017. The bill would make the provisions providing for continued immunity after repeal of the act operative on January 1, 2017.

The bill also would authorize a prospective purchaser who is in contract to acquire a site and who qualifies as a bona fide purchaser to enter into a specified agreement with an agency. The bill would prohibit a prospective purchaser who enters into an agreement from receiving immunity until the prospective purchaser acquires the site.

The people of the State of California do enact as follows:

SECTION 1. Section 25395.91 of the Health and Safety Code is amended to read:

25395.91. (a) Only the following are eligible to enter into an agreement pursuant to this article:

(1) A bona fide purchaser, innocent landowner, or contiguous property owner who meets the requirements specified in Section 25395.80.

(2) A prospective purchaser who is in contract to acquire a site through a purchase agreement, option agreement, or otherwise, and satisfies the requirements of Section 25395.69, except for any provision that requires current ownership of the site. However, a prospective purchaser who enters into an agreement pursuant to this article shall not receive the immunities provided in Section 25395.81 until the time that the prospective purchaser acquires the site.

(b) An agreement entered under this article is not subject to Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, including, but not limited to, Section 10295 of the Public Contract Code.

SEC. 2. Section 25395.109 of the Health and Safety Code is amended to read:

25395.109. This chapter shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 3. Section 25395.110 of the Health and Safety Code is amended to read:

25395.110. (a) A person who, before January 1, 2017, qualifies for immunity pursuant to Chapter 6.82 (commencing with Section 25395.60), as that chapter read on December 31, 2016, shall continue to have that immunity on and after January 1, 2017, if the person continues to be in compliance with the requirements of former Chapter 6.82 (commencing with Section 25395.60), including, but not limited to, compliance with all response plans approved pursuant to Article 6 (commencing with Section 25395.90) of former Chapter 6.82, and compliance with all other applicable laws.

(b) This article shall become operative January 1, 2017.